

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION**

Thomas W. Browning,)	Civil Action No. 0:16-3237-RMG
)	
Petitioner,)	
)	
v.)	ORDER
)	
A. Mansukhani, <i>Warden Federal</i>)	
<i>Correctional Institution – Estill,</i>)	
)	
Respondent.)	

This matter is before the Court on the Report and Recommendation of the Magistrate Judge, recommending dismissal of Petitioner's habeas petition with prejudice for lack of prosecution. The basis for the Magistrate Judge's recommendation is Petitioner's failure to respond to Respondent's motion to dismiss. On March 8, 2017, the United States Attorney's Office informed the Court that Petitioner sent his response to the motion to dismiss to the Government rather than to the Court. Petitioner's response to the motion dismiss is now docketed. It is impossible to tell when Petitioner mailed his response, but the U.S. Attorney received it on January 30, 2017 (see Dkt. No. 26-2 at 2), so it was timely under the Court's order of January 26, 2017, which extended the time for a response to February 9, 2017. The Court therefore **DECLINES TO ADOPT** the Report and Recommendation (Dkt. No. 21) and **RECOMMITTS** this matter to the Magistrate Judge for further proceedings.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

March 9, 2017
Charleston, South Carolina